IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 771 of 2006

Rasheed S/o Makhdum Baksh
R/o Village Khatka,
Police Station – Kotwali Roorkee,
District Haridwar.

…….. Applicant

Versus

1. State of Uttaranchal
2. Nafees S/o Tahir
   R/o Village Khatka,
   Police Station – Kotwali Roorkee,
   District Haridwar.

……. Respondents

Mr. Rajendra Singh, Advocate for the petitioner.
Mr. Amit Bhatt, A.G.A. for the respondent State.

Hon'ble Prafulla C. Pant, J

Heard Mr. Rajendra Singh, learned counsel for the applicant/ petitioner and Mr. Amit Bhatt, learned A.G.A. for the respondent State.

2) By means of this petition, moved under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred as Cr.P.C.), the petitioner, who is informant in the Sessions Trial No. 214 of 2002 has sought quashing of the order dated 14.09.2006, passed by learned Sessions Judge, Haridwar in Criminal Transfer Application No. 55 of 2006; Nafees Vs. State.

3) Brief facts are that, a sessions trial No. 214 of 2002; State Vs. Tahir and others, relating of offences punishable under Section 302, 307 of I.P.C., Police Station Kotwali Roorkee, District Haridwar, was pending before the II Fast

Track Court/ Additional Sessions Judge, Haridwar. Respondent No. 2 Nafees was one the accused in said sessions trial. It appears that Nafees moved an application for transfer of the case from the court of Additional Sessions Judge, Haridwar to the court of Sessions Judge, Haridwar, on the ground that he is a post graduate unemployed, and since court of Additional Sessions Judge is over burdened with the work, the trial is getting delayed and the respondent No. 2 Nafees is unable to apply for job. Certified copy of said transfer application is Annexure- 2 to the petition. Learned Sessions Judge has withdrawn the sessions trial, from the court of Additional Sessions Judge, to his court. However, perusal of the copy of order sheet (which is Annexure – 1 to this petition) clearly shows that the sessions trial No. 214 of 2002 was at the stage of recording the statements of accused under Section 313 of the Cr.P.C., which was pending for several dates and it was the accused, who were seeking adjournment by getting their presence exempted through the counsel.

4) In the above circumstances, the impugned judgment and order (Annexure- 3), passed by the learned Sessions Judge, Haridwar, transferring the sessions trial No. 214 of 2002, from the court of Additional Sessions Judge, to his court, is set aside.

5) The petition under Section 482 of Cr.P.C., stands disposed of, summarily.

(Prafulla C. Pant, J.)

Dt. 28th September, 2006.
H.Negi